

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH KRUPPENBACHER,

Plaintiff,

– against –

ANTHONY J. ANNUCCI, Acting
Commissioner of the New York
State Department of Corrections
and Community Supervision, *et al.*,

Defendants.
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ORDER

No. 20-CV-108 (CS)

Seibel, J.

On January 2, 2020, Plaintiff filed this action against Anthony J. Annucci, Acting Commissioner of the New York State Department of Corrections and Community Supervision (“DOCCS”), Thomas R. Griffin, former Superintendent of Green Haven Correctional Facility, Donald Wilkens, former Deputy Superintendent of Security at Green Haven Correctional Facility, Laura A. Stanaway, Inmate Grievance Program Supervisor at Green Haven Correctional Facility, Dr. Lester Silver, former Sergeant Keith J. Sposato, Correction Officer Richard Smith II, and three John Doe Defendants, all in their individual and official capacities. (Doc. 1.)

On August 3, 2020, Defendants submitted a pre-motion letter in connection with their anticipated motion to dismiss. (Doc. 20.) On that same day, the Court set a pre-motion conference date for September 2, 2020, and ordered Plaintiff to respond to Defendants’ letter by August 26, 2020. (Doc. 21.) Plaintiff failed to do so. At the conference I directed Defendants’ counsel to re-send their August 3, 2020 letter to the plaintiff, and granted Plaintiff leave to amend his complaint in response to the issues

raised by Defendants in their letter. (*Id.*) Plaintiff was to submit his Amended Complaint by October 16, 2020, but he never did so.

On November 16, 2020, Defendants filed their motion to dismiss, (Doc. 23), and memorandum of law, (Doc. 24), and served the same on Plaintiff, (Doc. 25.). Plaintiff failed to respond by his deadline of December 31, 2020. On January 15, 2021, Defendants' counsel submitted a letter asking the Court to find their motion fully briefed (Doc. 26.) That, too, failed to prompt any communication from Plaintiff. It thus appears that Plaintiff has lost interest in this case.

Although Plaintiff's time to oppose the motion has passed, the Court will rule on the merits of Defendants' motion, but only if Plaintiff still wishes to pursue the case. It is hereby ORDERED that, if Plaintiff wishes to pursue the case, he shall submit a letter saying so, no later than April 27, 2021. Failure to do so will result in the dismissal of the complaint under Federal Rule of Civil Procedure 41(b) without prejudice for failure to prosecute. The Clerk of Court is respectfully directed to send a copy of this Order to Plaintiff.

SO ORDERED.

Dated: April 7, 2021
White Plains, New York


CATHY SEIBEL, U.S.D.J.